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SIPDIS

STATE FOR INL AND EAP/MLS AND EB/ESC/TFS
JUSTICE FOR OIA, AFMLS
TREASURY FOR FINCEN AND OASIA

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SUBJECT: VIETNAM: 2005-2006 INCSR RESPONSE PART II FINANCIAL
CRIMES AND MONEY LAUNDERING

REF: STATE 210324

1. (U) This cable is in response to an action request (reftel).

2. (U) Summary: In addition to Vietnam's underdeveloped financial sector, its large black market economy, weak customs controls, and substantial remittances make it an easy place to launder money. While the Government of Vietnam has made some steps towards improving the situation, increasing their cooperation with other nations and passing anti-moneylaundering legislation, this issue will continue to be a problem in Vietnam for some time to come. End Summary.

3. (U) Vietnam is not an important regional financial center. The Vietnamese banking sector is underdeveloped and the Government of Vietnam (GVN) controls the flow of all U.S. dollars in official channels. The nature of the banking system makes it unlikely that major money laundering or terrorist financing is currently occurring in financial institutions. However, a "drug economy" does exist in Vietnam's informal financial system. Vietnam has a large "shadow economy" in which U.S dollars and gold are the preferred currency. Due to the limited size of Vietnam's banking system and currency exchange controls, even legitimate businesses carry on transactions in this "shadow economy". In addition, Vietnamese regularly use gold shops and other informal mechanisms to remit or receive funds from overseas. Official inward remittances in 2005 were estimated to be USD 3.8 billion while estimates are that double that amount came through unofficial channels. Foreign embassies and UNODC, among others, believe that a percentage of transactions in the informal remittance systems may come from narcotics proceeds.

4. (U) Article 251 of the Amended Penal Code criminalizes money laundering. The Counter-narcotics Law, which took effect June 1, 2001, makes two narrow references to money laundering in relation to drug offenses: it prohibits the "legalizing" (i.e. laundering) of monies and/or property acquired by committing drug offenses (article 3.5); and, it gives the Ministry of Public Security's specialized counter narcotics agency the authority to require disclosure of financial and banking records when there is a suspected violation of the law. The Penal Code governs money laundering related offenses.

5. (U) In June 2005, GVN issued Decree 74/2005/ND-CP on Prevention and Combat of Money Laundering. The Decree covers acts committed by individuals or organizations to legitimize money or property acquired from criminal activities. The Decree applies to banks and non-banking financial institutions. The State Bank of Vietnam (SBV) and the Ministry of Public Security (MPS) take primary responsibility for preventing and combating money laundering. The decree does not cover counter-terrorist finance.

6. (U) SBV supervises and examines financial institutions for compliance with anti-money laundering/counter terrorist financing regulations. Financial institutions are responsible for knowing and recording the identity of their customers. They are required to report cash transactions conducted in one day with aggregate value of VND 200 million (around USD 13,000) or more, or equivalent amount in foreign currency or gold. The threshold for savings transactions is VND 500 million (around USD 31,000). Furthermore, financial institutions are required to report all suspicious transactions. Banks are also required to maintain records for seven years or more. Banks are responsible for keeping information on their customers secret, but they are required to provide necessary information to law enforcement agencies for investigation purposes.

7. (U) Foreign currency (including notes, coins and traveler's checks) in excess of USD 7,000 and gold of more than 300 grams must be declared at customs upon arrival and departure. There is no limitation on either the export or import of U.S. dollars or other foreign currency provided that all currency in excess of USD 7,000 (or its equivalent

in other foreign currencies) is declared upon arrival and departure, and supported by appropriate documentation. If excess cash is not declared, it is confiscated at the port of entry/exit and the passenger may be fined.

18. (U) The 2005 Decree on Prevention and Combat of Money Laundering provides for provisional measures to be applied to prevent and combat money laundering. Those measures include 1) suspending transactions; 2) blocking accounts; 3) sealing or seizing property; 4) seizing violators of the law; and, 5) taking other preventive measures allowed under the law.

19. (U) The 2005 Decree also provides for the establishment of an Anti-Money Laundering Information Center under the State Bank of Vietnam (SBV). This center will function as the sole body to receive and process information. It will have the right to request concerned agencies to provide information and records for suspected transactions. Senior officials of the center will be appointed by the Governor of the SBV. The center is awaiting final approval from the Government before it can be formally established.

110. (U) MPS is responsible for investigating money laundering related offenses. There is no information available on arrests and/or prosecutions for money laundering or terrorist financing since January 1, 2005.

111. (U) SBV acts as the sole agency responsible for negotiating, concluding and implementing international treaties and agreements on exchange of information on transactions related to money laundering. SBV is seeking donors' assistance to strengthen its supervision capabilities in the context of Vietnam integrating into the world economy.

112. (U) MPS is responsible for negotiating and concluding international treaties on judicial assistance, cooperation and extradition in the prevention and combat of money laundering related offenses.

113. (U) Vietnam is a party to the 1999 International Convention for the Suppression of the Financing of Terrorism. Vietnam plans to draft separate legislation governing counter terrorist financing, though they will not set a specific time frame for this drafting. Currently SBV circulates to its financial institutions the list of individuals and entities that have been included on the UN 1267 sanctions committee's consolidated list as being linked to Usama bin Laden, members of the Al Qaida organization or the Taliban, or that the USG has designated under relevant authorities. To date no related assets have been identified.

114. (U) Vietnam has been a party to the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) since 1997. Under existing Vietnamese legislation, there are provisions for seizing assets linked to drug trafficking. In the course of its drug investigations, MPS has seized vehicles, property and cash, though the seizures are usually directly linked to drug crimes. Final confiscation requires a court finding. Reportedly, MPS can notify a bank that an account is "seized" and that is sufficient to have the account frozen. However, MPS is not allowed to seize assets in order to investigate them; they must receive separate information that confirms and/or proves the money is laundered before it can be frozen. A further restriction of their investigative powers is that Vietnam authorities cannot act on information or investigative findings provided by outside agencies.

115. (U) The U.S. Drug Enforcement Agency (DEA) is engaged in a number of investigations targeting significant MDMA (Ecstasy) and marijuana trafficking organizations, composed primarily of Viet Kieu (overseas Vietnamese), in both the United States and Canada. These drug trafficking networks are capable of laundering tens of millions of dollars per month back to Vietnam, exploiting U.S. financial institutions to wire or transfer money to Vietnamese bank and remittance accounts, as well as engaging in the smuggling of bulk amounts of U.S. currency from the United States into Vietnam. The DEA has provided the Economic Police Unit of the MPS with information detailing the methods as well as identifying the bank accounts in Vietnam, which drug organizations have used to launder drug proceeds. Even with this information, the MPS stated that unless they have statements from the money remitters and the recipients of the money acknowledging its illegitimacy, they are unable to seize that money. Recently, the DEA Hanoi office received unprecedented cooperation from MPS on two undercover money laundering transactions where the MPS provided an undercover officer to receive alleged drug proceeds in Vietnam from the United States. However, despite requests made by DEA, MPS provided no investigative information on the businesses, bank accounts, or people that

facilitated this illegal money remittance to Vietnam. These actions emphasize the lack of willingness and/or legal ability of MPS to support cooperative anti-money laundering efforts. MPS has denied the requests from DEA Hanoi office for assistance in identifying instances in which U.S. citizens have entered Vietnam in possession of \$10,000 or more in cash, which by U.S. law should have been declared prior to exiting the United States. Furthermore, MPS continues to stonewall on requests for the results of MPS' investigation into bank accounts and individuals (and their assets) in Vietnam identified by DEA investigation as complicit in the laundering of drug proceeds from the United States.

MARINE